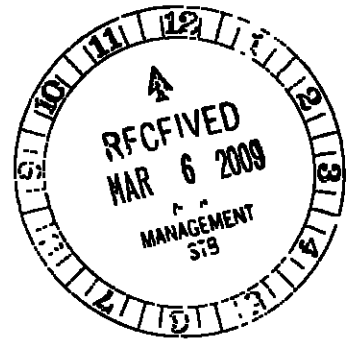


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BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.



Finance Docket No. 35221

JAMES RIFFIN – ACQUISITION AND OPERATION EXEMPTION –
VENEER MFG CO. SPUR – LOCATED IN BALTIMORE COUNTY, MD

**SECOND MOTION TO AMEND
VERIFIED NOTICE OF EXEMPTION**

224629

1. James Riffin (Applicant), a Carrier, moves to further amend his Amended Verified Notice of Exemption, which was filed on February 20, 2009, and for reasons states:

2. In a decision served on March 5, 2009 in the above entitled proceeding, the Board indicated the Applicant failed to list the transferor of the Spur that is the subject of this proceeding. The Board further stated that should Applicant refile a new notice of exemption (“NOE”) or some other request for authority, Applicant should provide the Board with information which would support Applicant’s statement that Applicant is a rail carrier.

3. The appended Second Amended Verified Notice of Exemption details who the transferor is in ¶1(e) of the NOE, and indicates who the transferor is in the Caption Summary. The appended Memorandum provides factual and legal support for Applicant’s assertion that Applicant is an existing rail carrier, and legal argument in support of Applicant’s assertion that his intended use of the Veneer Spur would meet the criteria for classifying the Spur as a line of railroad, rather than §10906 excepted track. The NOE clearly states the Applicant has acquired an existing railway spur, including the rails, other track material and underlying real estate, and intends to use the railway spur for railroad purposes. A railway spur obviously is “railway

property,” that is, property “related to the movement of property by rail.”

4. The Board’s March 5, 2009 Decision stated in footnote 1 that the Maryland Transit Administration (“MTA”) filed a reply to Applicant’s Motion for a Protective Order. After Applicant has received and reviewed the MTA’s reply, Applicant will seek leave to file his response.

5. WHEREFORE, Riffin would move to further Amend his Amended Verified Notice of Exemption, by substituting the appended **Second Amended** Notice of Exemption.

6. Riffin would further move to incorporate his previously filed Motion for Protective Order within his Second Amended Notice of Exemption, rather than resubmitting another identical Motion for Protective Order, and would

7. Further move the Board to accept the MTA’s Reply to Protective Order, rather than requiring the MTA to resubmit another identical Reply.

8. And for such other and further relief as would be appropriate.

Respectfully,


James Riffin, Applicant

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of March, 2009, a copy of the foregoing Second Motion to Amend was served by first class mail, postage prepaid, upon James R. Paschall, Senior General Attorney, Norfolk Southern Railway Company, Law Department, Three Commercial Place, Norfolk, VA 23510; and upon Charles Spitulnik, Kaplan Kirsch Rockwell, Ste 905, 1001 Connecticut Ave, N.W., Washington, DC 20036, counsel for the Maryland Transit Administration and Maryland Department of Transportation.


James Riffin